

Testimony on SJR5 by John Gear, Salem, Oregon, 21 April 2015

There's often a certain charm from standing out from the crowd. But sometimes, being the exception isn't a sign of special virtue, just a sign that you're just unwilling to admit you've gone in the wrong direction.

For example, growing up in Texas, I had no idea whatsoever that driving while drinking a can of beer was against the law in other states. Having no law against driving with an open container of alcohol was unique, and some people felt it had charm, but it caused terrible problems for the people being run over.

Oregon's absence of lack of a political contribution limits is a similar problem – some people think it's charming, but they're all the ones in the driver's seat, not the ones getting run over.

The bottom line is that when elections become auctions, all democracy is threatened. We recently learned that the takeover of money is so complete today that we can even quantify the extent to which the influence of the wealthy exceeds the influence of average voters, to say nothing of the least well off. That's fine in a corporation where it's one vote per share, but it's fatal to a democracy, where it's got to be one-person one-vote.

We simply must have the ability to regulate candidate contributions or else we are turning the First Amendment into a suicide pact.

The key is not to stop with limits on the supply side – since the 1970s we have seen a tsunami of money find its way through every crevice and crack in the system, because we've chosen to ignore that where there is intense demand, there will be supply.

What we need to do is not just make it clear that we can limit contributions, we also need to address the insatiable demand for money that begets its corrosive influence.

And it's primaries where we have the greatest opportunity, because primaries are, today, publicly funded private battles, which we certainly have no constitutional duty to do. And it's in partisan primaries where the role of money is most outsized.

Thanks to careful gerrymandering and the use of single-winner districts, the partisan makeup of each district determines who wins – the frequent complaint that winners spend the most 95 or 99% of the time isn't actually a thing: in our system, where access and influence are for sale, the contributions follow the district leanings. In other words, money follows the results that are a foregone conclusion – money only rarely causes those results – IN the general election.

But in the primaries, money is the key determinant. That is when a tiny handful of influential donors have the greatest impact, and it is the money primary that decides who the rest of us are allowed to consider.

What Oregon should do to protect its democracy is to both put limits on supply with contribution limits, but also on demand, by making the parties pay for partisan elections, and setting the fees to be paid according to how widespread the party's support, with the cost to the party increasing with the degree to which contributions to the candidates in the partisan primary reflect the capture of the party nominating process by money.

So, Oregon should have both contribution caps and serious incentives for large numbers of small givers giving amounts below those caps. The way to do this is to require parties to pay the bill for all partisan elections, and divide the bill among the parties according to how much money they raise in amounts exceeding the amount that an individual Oregonian can deduct on their taxes. The goal would be to make the public tax credit the primary means of funding candidates, and rewarding parties who build public support from Oregonians, rather than just huge bankrolls from a handful of givers.

Thus, not only would we have contribution limits on the supply side, but we would also greatly encourage a participatory model for funding, rather than a money primary that lets the wealthy few dictate the results to the rest of us.